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IN THE

Supreme Court of the United States

October Term, 1961

No. 468

STEVEN I. ENGEL, *et al.*,
Petitioners,

v.

WILLIAM J. VITALE, JR., *et al.*,
Respondents.

On Writ of Certiorari to the Court of Appeals of the State of New York

MOTION FOR LEAVE TO FILE A BRIEF AS *AMICUS CURIAE*

The American Ethical Union hereby respectfully moves for leave to file a brief *amicus curiae* in this case. Permission to submit a brief *amicus* has been requested but counsel for Respondents and for Intervenor-Respondents have declined to consent thereto.

The American Ethical Union is a federation of Ethical Culture Societies and Groups in the United States, which, collectively, constitute a liberal religious fellowship known as the "Ethical Movement" or the "Ethical Culture Move-

ment." There are now twenty-eight Societies and Groups in eleven states and the District of Columbia. Eight of these are located in New York State.

The American Ethical Union is a member of the International Humanist and Ethical Union, which will hold its third International Congress in Oslo this year. The International organization includes groups representing the United States, Great Britain, Belgium, Holland, Austria, India, Norway, France, Germany, Japan and South Africa.

Ethical Culture is a religion and has been widely recognized as such. The Ethical Culture Societies and Groups conduct services and religious schools for children which meet regularly on Sunday mornings. The Leaders of the Ethical Culture Societies, some of them drawn from the ordained ministry of other religious groups, are required to have advanced degrees, post-graduate study in religion and philosophy and to take an intensive course of training before appointment and admission to the Fraternity of Leaders of the American Ethical Union. The Leaders provide the usual pastoral services customarily performed by ministers of religion, such as officiating at marriages, funerals and naming ceremonies, and counselling members of the Societies on ethical and moral problems.

The Ethical Movement believes that:

> "Whether one does or does not believe in God, prayer or immortality, is one's own affair. Membership in an Ethical Society is not conditioned on acceptance or rejection of any one answer to such question. In the Ethical Movement the good life and the rights and duties of human beings are looked upon as stemming from man's relations to man in the family of mankind." [Do You Know THE ETHICAL MOVEMENT?, pamphlet published by the American Ethical Union, 2 West 64th Street, New York 23, N. Y. p. 3].

This Court has held non-theistic beliefs to be religions entitled to protection under the Fourteenth Amendment and has specifically recognized Ethical Culture as such a religion. *Torcaso v. Watkins*, 367 U. S. 488, n. 11.

The issue now before the Court is whether a state may impose on pupils in its public schools a prayer which specifically acknowledges dependence on a Supreme Being. Imposition of this prayer is of direct concern to the American Ethical Union. One of the parent petitioners is a member of an Ethical Culture Society (R. 12). The individual's freedom to determine for himself whether or not to relate his religious aspirations to the existence of a Supreme Being is a fundamental tenet of the Ethical religion. The prayer to which, under the decision of the New York Court of Appeals, children of Ethical Culture members must submit, is thus a direct infringement of their religious liberty and of that of their parents, in violation of the Fourteenth Amendment as interpreted by previous decisions of this Court.

Accordingly, we request permission to file a brief *amicus curiae* in this case, in order to place before this Court considerations related to the effect of the decision below on members, and children of members, of the Ethical Culture Movement and of other non-theistic religions.

Respectfully submitted,

LEO ROSEN
285 Madison Avenue
New York 17, New York
Attorney for
The American Ethical Union
Amicus Curiae

Of Counsel:
GREENBAUM, WOLFF & ERNST
NANCY F. WECHSLER